

STAY AND BAIL FOR CASSIDY AND WALTER

Justice Blackmar Holds Evidence Against Boss Open to Reasonable Doubt.

OPENS WAY FOR AN APPEAL

Walter Claims Immunity—Case of Willett Still to Be Decided.

Supreme Court Justice Blackmar in Brooklyn granted certificates of reasonable doubt yesterday to Joseph Cassidy and Louis T. Walter, Jr., recently convicted for the sale of a Supreme Court nomination to William Willett, Jr., in 1911. This not only acts as a stay of sentence, pending appeal, but gives to the petitioners, who are now in the Raymond street jail, the privilege of bail.

Cassidy was sentenced by Justice Jaycox on February 4 to pay a fine of \$1,000 and to serve not more than one year and six months in Sing Sing prison. At the same time Walter, jointly indicted and tried with Cassidy, was fined \$1,000 and sentenced to serve three months on Blackwell's Island on conviction of having acted as Willett's agent in passing the price of the nomination to the Queens county boss. Willett, convicted of buying the nomination, got the same sentence as did Cassidy.

All three have been in the Raymond street jail since then, none being compelled to begin his sentence forthwith, as Justice Jaycox granted a stay of execution that counsel might perfect their appeals. The first step was an application for the certificates of reasonable doubt. Arguments on the writs in the case of Cassidy and Walter were heard by Justice Blackmar Tuesday last. Robert H. Elder representing the ex-boss and Robert M. Moore the other applicant.

Mr. Elder claimed that his client had been convicted on evidence already declared inadequate by the Appellate Division, basing his contention on the fact that Cassidy, Walter and Willett all three originally held for the Grand Jury by Justice Scudder, sitting as a committing Magistrate in Queens county, were subsequently discharged by the Appellate Division on writs of habeas corpus.

Evidence All Circumstantial.

In Cassidy's case it was held that "a careful examination of all the evidence taken before the Magistrate fails to disclose any connection between Cassidy and any criminal act or conduct." His indictment, trial and conviction in Kings county was good ground for an appeal, according to Mr. Elder, who denied that District Attorney Cranshaw had discovered enough new evidence since the Appellate Division to warrant reopening the case. In this connection Justice Blackmar says:

"The evidence that Cassidy accepted a bribe is purely circumstantial. There is no direct evidence that he received any valuable consideration from Willett or from Walter. His guilt rests upon inferences from circumstances. It is not the duty of the Appellate Division to pass upon the evidence in the case upon which the Appellate Division passed. The concrete question before me, therefore, is whether the additional evidence offered on the trial not only takes the case out of the rule laid down by the Appellate Division, but whether it removes the question from the region of doubt."

Justice Blackmar then reviews the queer coincidences out of which District Attorney Cranshaw built his case: how Willett drew \$5,000 prior to the primaries, \$10,000 before the Assembly District convention and \$10,000 more on the day of the judicial convention at which he was placed in nomination by Walter to whom he had previously given at least \$5,000 in aid. The fact that Walter was with Willett when the last \$10,000 was drawn, that he met Cassidy a few hours later and that the boss soon afterward announced Willett as the candidate is all touched upon in the opinion, as are Willett's original statement that he was borrowing \$5,000 to secure the nomination, his subsequent efforts to conceal the transaction and his questionable explanations.

View of Appellate Division.

"The Appellate Division," continues Justice Blackmar, "decided that the facts constituted no evidence of Cassidy's guilt and that is the law for this case. The reason for this decision is probably found in the fundamental rule of circumstantial evidence, viz. that the facts offered must not only be consistent with guilt, but inconsistent with innocence."

That the District Attorney did produce new evidence at the trial is admitted by Justice Blackmar, who cites as most important the depositing of \$5,000 by Cassidy just five days after Willett had drawn an equal amount.

"This, with other additional facts proved at the trial, are unquestionably consistent with Cassidy's guilt and a legitimate basis for such inference," he says; "but I am of the opinion in view of the decision of the Appellate Division that it is open to doubt whether the circumstances taken together are inconsistent with innocence. At least a question is presented which should be passed on by an appellate court before the judgment is executed."

The grounds for appeal in Walter's case are different. His counsel claims immunity for him on the ground that the court by compelling him to testify against Willett had raised a bar to his prosecution. Justice Blackmar says:

"Upon the facts as stated he was undoubtedly immune from prosecution. But the District Attorney claimed and the trial court held that such immunity had been waived by his voluntarily testifying before Justice Scudder, sitting as a magistrate, with reference to the same offense."

The application for a writ in behalf of William Willett was argued separately. The decision in that case is still to be handed down.

JUSTICE PENDLETON ROBBED.

Handsome Summer Home at Manhasset Ransacked by Burglars.

The handsome summer home of Supreme Court Justice P. K. Pendleton on the Old Courthouse road, Manhasset, L. I., was robbed of everything of value some time within the last week. The robbery was discovered yesterday by the superintendent when he made an inspection of the house. The burglars entered by removing a pane of glass from a rear window. Justice Pendleton and his family are spending the winter at their city home, 7 East Eighty-sixth street, Manhattan. From when ransacked it is believed that the burglars used an automobile to escape with their booty. They ransacked the house from top to bottom. The loss cannot be determined until an inventory is taken, but it will include a valuable bric-a-brac and several costly paintings. "Many reports of suspicious looking men about deserted corners" places have been received recently by the Manhattan police. They say that several nights ago a chauffeur employed by Seward Webb, Jr., son-in-law of the late Mayor Gaynor, was driving near the Pendleton estate when a man tried to hold him up. The chauffeur fled past him and a revolver shot was fired, the bullet later being found embedded in the automobile.

Chiffon Taffetas, Soft Moires, Silk Poplins and Panne Crêpes

in the new, fashionable colors, are on sale at very reasonable prices.

THE SILK DEPARTMENT

On TUESDAY,

February 17th

5,000 Women's Morning Dresses

made of such desirable cotton fabrics as voile, striped tissue, crepe, pique and gingham, will be placed on sale in the Department on the Second Floor at the very special prices of

\$1.45, \$2.25, \$3.00 & \$3.50

Smart Dancing Frocks and Silk Dresses for Afternoon and Evening

now displayed in the Ready-to-wear Department on the Third Floor, are accurate reflections of the latest fashions in Paris.

MODERATE PRICES PREVAIL.

SPECIAL INDUCEMENTS FOR TO-MORROW (MONDAY):

An Important Sale of French Silk-and-cotton Crepe (double width)

to be commenced to-morrow (Monday), will offer this desirable fabric at the unusual price of per yard 85c

The selection embraces 30 of the smart shades for Spring, including tango, amethyst, taupe, brown, green, cadet and navy blues, and the leading colors for street and evening wear; also black.

Children's Imported Washable Hand-embroidered Dresses

will afford an excellent opportunity for replenishing the girl's wardrobe at unusual price advantages.

Russian and Waist Dresses of pique, hand-embroidered; sizes 6 to 12 years at \$6.00

Russian Dresses of pique, hand-embroidered; sizes 4 to 10 years at \$3.50 & 4.50

English Gingham Dresses, hand-embroidered; sizes 4 to 10 years at \$2.90

Dressmaking and Tailoring Dep't (Third Floor)

Evening and Afternoon Gowns

Dancing Frocks and

Tailor-made Suits

made to order at exceptionally moderate prices. Superior materials and workmanship.

The Mourning Department

The latest creations in fashionable Mourning are shown in an extensive assortment which includes Mourning Tailor-made Suits of ripple crepe, silk poplin, serge, gabardine, etc.; Mourning Gowns for afternoon, evening, luncheon and dinner wear, made of chiffon and the soft silks and crepes; Mourning Blouses modeled on the newest lines; and Mourning House Gowns and Negligees in the most attractive models and the daintiest fabrics. A specialty is made of Mourning Gowns and Robes d'interieur in all-white.

Hats, Parasols, Veils, Neckwear, Gloves, Handkerchiefs, etc.

Mourning Outfits supplied at short notice. A special representative will call if desired.

All Charged or Paid Purchases will be forwarded Free of Charge by mail, express or freight to points within 300 miles of New York.

All Charged or Paid Purchases not exceeding Twenty (20) pounds in weight will be forwarded Free of Charge to any part of the United States.

B. Altman & Co.

TELEPHONE 7000 MURRAY HILL

Imported Hand-made Lace Curtains, Panels and Bedspreads

(in limited quantities of each pattern) will be marked, in order to effect an immediate clearance, at remarkably low prices, as follows:

French Lace Curtains per pair \$6.75 & 8.00

French Lace Bedspreads (single size) each \$5.85 & 9.75

Filet Lace Panels each \$19.00 & 22.00

Filet Lace Curtains, per pair 35.00 & 55.00

Filet Lace Bedspreads, each 48.00 & 55.00

An Interesting Sale of Household Linens, Blankets, Bedspreads, Muslin Sheets and Pillow Cases

to be held in the Departments on the Fourth Floor, to-morrow (Monday) and Tuesday, will present exceptional values at the following prices:

Linen Damask Table Cloths, each \$1.75 & 3.50

Linen Damask Dinner Napkins per dozen \$2.50 & 5.25

Linen Sheets, hemstitched, pair \$4.50 & 5.75

Linen Pillow Cases, hemstitched, per pair \$1.15 & 1.50

Linen Huck Towels, hemstitched, per dozen \$2.75

Guest Room Towels, hemstitched, per dozen \$2.75 & 3.50

Madeira Tea Napkins per dozen 5.50

Satin-finish Bedspreads hemmed each \$2.90 & 3.90

scalloped each 3.25

Crochet Bedspreads each 1.25

Comfortables each 1.65

White Blankets per pair \$4.50 & 5.50

Muslin Sheets, with plain hems, each 50c., 58c., 65c., 72c. to 85c.

Muslin Pillow Cases, with plain hem, each 12c., 14c., 16c., 19c. & 21c.

Also a Limited Quantity of Sateen-covered, Down-filled Comfortables, each \$4.50 & 5.00

(being fully 25% less than the regular prices).

Women's Silk Petticoats

in new Spring models, will offer attractive values at the following prices:

White Crepe de Chine Petticoats, having gores of double thickness at front and back; effectively lace-trimmed at \$7.75

Messaline Petticoats, in black and a variety of colors; finished with deep French-plaited flounce at \$4.50

A Special Purchase of 4,000 Yards of Check Suitings

consisting of shepherds' check and broken check, in black-and-white and blue-and-white suitable for Tailor-made Suits for Spring, will be placed on sale at the exceptional price of per yard \$1.10

The Dress Goods Department has now in stock an unusually large assortment of black-and-white materials for Spring wear, including many exclusive patterns suitable for Tailor-made Suits and Sports Coats.

An Advance Display of Paris Model Hats

in very youthful and distinctive styles for Misses and Young Women has been arranged for to-morrow (Monday), in the First Floor Millinery Department.

The Spring Fashions for Misses and Small Women

are piquant, distinctive and decidedly becoming. They are now being displayed in the Department on the Second Floor, in a most interesting selection which covers a wide range of prices and features the dominating Paris modes in

Tailored Suits in taffeta, moire and wool crepes Afternoon and Evening Gowns and Dancing Frocks in dainty silks, Martine printed effects and hand-worked embroideries;

Evening and Outing Coats in golfine, moire and novelty wools;

Misses' Blouses, fashioned on supple, graceful lines in delicate materials.

Special salespeople will, if desired, accompany patrons to the various departments of the store.

Thirty-fourth Street

Fifth Avenue, New York

Thirty-fifth Street

WHITMAN WON'T ACCEPT.

Would Have to Resign to Become Assembly Prober.

WASHINGTON, Feb. 14.—District Attorney Whitman will not accept the place as special graft investigator of New York State. That was apparent to-night when friends of Mr. Whitman talked with him here in Washington. The District Attorney himself declined to discuss the offer which had been made to him to take up the graft investigation in New York State at the invitation of the Legislature.

It was apparent, however, that Mr. Whitman would not consider any proposition which would contemplate his resignation as District Attorney of New York county. He intends to serve in that office for the term for which he was elected.

He received a message to-night from Speaker Sweet asking that he confer with him in regard to the special investigator

question when he returns to New York city. The District Attorney accepted the invitation, but there is no likelihood of his accepting the place if it contemplates a retirement on his part from the District Attorneyship.

The selection of counsel to the graft investigating committee of the Assembly probably will be made to-day. There will be a conference this afternoon between Thaddeus C. Sweet, Speaker of the Assembly; John Leo Sullivan, chairman of the committee, and District Attorney Whitman, who is expected back by noon from Washington.

Rumors yesterday were that the selection lay among Henry L. Stinson, former Secretary of War and Republican candidate for Governor; ex-Senator Edgar T. Brackett and ex-Senator Harvey D. Hinman.

John K. Clark, Assistant District Attorney, who has proved so material a help to Mr. Whitman in many important investigations, including the probe into

highway, canal and aqueduct graft, probably will be chosen as associate counsel. In memory of those who lost their lives in the Col. John Jacob Astor Camp 98, United States Postal Employees, United Spanish War Veterans, Department of New York, will hold services at the Seventy-first Regiment Armory, Thirty-fourth street and Fourth avenue, at 3 P. M.

TABLET TO MAINE VICTIMS.

To Be Unveiled To-day, 16th Anniversary of the Disaster.

Sixteen years ago to-day the battleship Maine was blown up in Havana harbor. In memory of those who lost their lives the Col. John Jacob Astor Camp 98, United States Postal Employees, United Spanish War Veterans, Department of New York, will hold services at the Seventy-first Regiment Armory, Thirty-fourth street and Fourth avenue, at 3 P. M.

A memorial tablet will be unveiled by Department Chief of Staff Alfred J. Kennedy. The tablet is made of metal from the Maine, which was presented to the camp by the Navy Department.

Men prominent in public life have been invited to attend the services. It is expected that the forty-two members of the United Spanish War Veterans in Greater New York will be represented. There will be a concert by the New York letter carriers' band.

\$50,000 AWARD BRINGS \$500.

Lawyer Gets Right to Collect His Share of the Rest.

A judgment filed in the Supreme Court yesterday in a suit of Samuel McCurdy, an advertising manager, against James P. Swanick, a lawyer, shows that the verdict for \$50,000 awarded by a Sheriff's jury against McCurdy in a suit of Dr. George W. Tracey for alienating the affections of Mrs. Tracey has been settled for only \$500.

McCurdy filed a bankruptcy petition as soon as the \$50,000 verdict was entered and Tracey decided to accept \$500. Swanick, who was Tracey's attorney,

had an agreement by which he was to get half of the amount recovered from McCurdy, and when his client settled the case without his knowledge, Swanick had the judgment set aside that he might try to collect his share, or \$25,000.

BOSCA OUT AS TOWN TREASURER.

Hempstead Board Formally Declares His Office Vacant.

HEMPSTEAD, N. Y., Feb. 14.—At a special meeting of the town board of Hempstead this morning the office of town treasurer, formerly held by Ernest E. Bosca, was declared vacant after an opinion was received from M. Leon Bruce, who said that Bosca's failure to increase his bond from \$275,000 to \$375,000 rendered him ineligible.

An application by Mrs. Elizabeth C. Birkhead, administratrix of the estate of her husband, Thomas Birkhead, to compromise a claim against Benjamin Birkhead, Deaf, N. J., who was killed last year in an automobile driven by Birkhead, was granted by the town board. The claim against Birkhead was acting Mayor Deal and was for \$7,000 and the town accepted.

erred him ineligible. An appeal probably will be made on Monday.

The trouble arose when Bosca, a treasurer was accused of burning a self \$10,000 on the White Star line at East Rockaway, where the train, which is assessed for \$16,000, also was mortgaged for \$16,000, after W. H. Jones in \$1,000 bail for the jury.

Takes \$7,000 for Husband's Death.

Surrogate Cochran approved yesterday an application by Mrs. Elizabeth C. Birkhead, administratrix of the estate of her husband, Thomas Birkhead, to compromise a claim against Benjamin Birkhead, Deaf, N. J., who was killed last year in an automobile driven by Birkhead. The claim against Birkhead was acting Mayor Deal and was for \$7,000 and the town accepted.